

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

JOHNNY THOMAS ORTIZ II, JIMMIE)
GREGORY ROGERS, JR. and WELDON)
MURPHY,)

Plaintiffs,)

and)

Dr. Cornel West, Italo Medelius and North)
Carolina Justice for All Party,)

Plaintiff-Intervenors,)

v.)

Case No. 5:24-cv-00420-BO

NORTH CAROLINA STATE BOARD OF)
ELECTIONS, ALAN HIRSCH, in his official)
capacity as Chair of the North Carolina State)
Board of Elections, JEFF CARMON III, in his)
official capacity as Member of the North Carolina)
State Board of Elections, STACY EGGERS IV,)
in his official capacity as Member of the North)
Carolina State Board of Elections, KEVIN N.)
LEWIS in his official capacity as Member of the)
North Carolina State Board of Elections,)
SIOBHAN O'DUFFY MILLEN in her official)
capacity as Member of the North Carolina State)
Board of Elections, and KAREN BRINSON BELL,)
in her official capacity as Executive Director of the)
North Carolina State Board of Elections,)

Defendants.)

Judge Terrence W. Boyle

**COMPLAINT FOR DECLARATORY AND
PERMANENT INJUNCTIVE RELIEF**

1. Plaintiff-Intervenors Dr. Cornel West, Italo Medelius and North Carolina Justice for All Party ("JFA") hereby adopt and incorporate by reference each paragraph of Plaintiffs' Complaint (ECF No. 1).

INTERVENING PARTIES

2. Dr. Cornel West is the Dietrich Bonhoeffer Professor of Philosophy and Christian Practice at Union Theological Seminary. Dr. West is running for President of the United States in the 2024 general election with running mate Dr. Melina Abdullah. Dr. West was duly nominated for that office by JFA. Dr. West seeks to associate with JFA and its voter-supporters, including by running for President as JFA's nominee in North Carolina, but he cannot do so because the North Carolina State Board of Elections ("the Board") declined to certify JFA as a party. Dr. West resides in New York, New York.

3. Italo Medelius is Chair of JFA. He resides in Durham County, where he intends to remain and vote in future elections. Medelius seeks to campaign for, speak and associate with, and vote for JFA's candidates. Medelius circulated petitions and signed a petition to qualify JFA as a political party in 2024. Medelius is harmed by the Board's failure to certify JFA, which prevents him from campaigning for, associating with and voting for JFA's candidates, including Dr. West, and prevents JFA from participating in North Carolina's electoral process and hinders its ability to grow and develop as a political party.

4. JFA was founded in 2024 by supporters of Dr. West's campaign for President. JFA seeks to elect candidates to all levels of public office in North Carolina, but it is presently unable to place its nominees on the ballot because the Board declined to certify JFA as a political party. JFA is injured by the Board's action, which prevents it from participating in North Carolina's electoral process and hinders its ability to associate with its supporters, to engage in political speech and build support among the electorate, and to grow and develop as a political party. JFA maintains a business address in Durham County, North Carolina.

FACTUAL ALLEGATIONS

5. Plaintiff-Intervenors adopt and incorporate by reference each allegation of fact in Plaintiffs' Complaint. (ECF No. 1.) Plaintiff-Intervenors also allege the following facts.

6. On June 4, 2024, Mike McCorkle, counsel to the West/Abdullah presidential campaign, received an email from Candace Marshall, Associate General Counsel to the Board, requesting to schedule a call and obtain additional information about the West/Abdullah campaign's petition drive.

7. Mr. McCorkle responded within minutes, stating that "the campaign will offer its full cooperation to your investigation. Please let me know how you'd like to proceed or what I might do to help...."

8. At Ms. Marshall's request, Mr. McCorkle scheduled a conference with her and another Board staffer named Lindsey Wakely. The three held their conference on June 7, 2024.

9. On June 10, 2024 and June 11, 2024, Mr. McCorkle emailed Ms. Marshall and Ms. Wakely to provide additional information and materials they had requested during the conference.

10. On June 14, 2024 Mr. McCorkle emailed Ms. Marshall and Ms. Wakely again to offer additional information from JFA Chair Italo Medelius.

11. On June 14, 2024, the Board's General Counsel asked Mr. Medelius for responses to the "objections" raised to JFA's nomination petitions by Clear Choice Action and the North Carolina Democratic Party.

12. On June 19, 2024 Mr. Medelius met with Ms. Marshall, Ms. Wakely, and David Richards, another employee of the Board, by teleconference. Mr. Medelius voluntarily answered every question the Board representatives asked and provided all information they requested.

13. On June 21, 2024, the Board asked Mr. Medelius to testify under oath at its meeting scheduled for June 26, 2024.

14. Mr. Medelius submitted his response to Clear Choice Action's and the North Carolina Democratic Party's objections on June 25, 2024.

15. The Board held its hearing on June 26, 2024 and voted not to certify JFA as a new party, but indicated that it might do so at a later date. The Board indicated during the hearing that it would waive any applicable filing deadlines as applied to any new party that it might subsequently vote to certify.

16. On June 28, 2024, JFA held its nomination convention and duly nominated Dr. West and his running mate, Dr. Abdullah, as its candidates for President and Vice President, respectively. JFA also nominated Frankie Gist as its candidate for mayor of Winston-Salem.

17. On July 1, 2024, JFA filed its nomination certifications, confirming that it timely and duly nominated Dr. West, Dr. Abdullah and Mr. Gist at its convention.

18. On July 2, 2024 – the day after the deadline for JFA to certify its candidates – the Board emailed a subpoena to Mr. McCorkle to demand additional documents and materials. Mr. McCorkle's response was due July 9, 2024.

19. On or about July 2, 2024, the Board emailed a subpoena to Mr. Medelius to demand additional documents and materials. Mr. Medelius's response was due July 9, 2024.

20. On July 9, 2024, Mr. McCorkle submitted his response to the subpoena. Although Mr. McCorkle raised certain objections to the subpoena, he provided all additional information available to him and documents in the West/Abdullah campaign's possession that were responsive.

21. On July 9, 2024, Mr. Medelius submitted his response to the subpoena. Although Mr. Medelius raised certain objections to the subpoena, he provided all additional information available to him and documents in JFA's possession that were responsive.

22. On July 9, 2024, the Board met again and again declined to certify JFA as a party. The Board reiterated that it would waive any applicable filing deadlines as applied to any new party that it might subsequently vote to certify.

23. On July 16, 2024, the Board met again and again declined to certify JFA as a party – this time, apparently, entering a final decision in the matter.

CAUSES OF ACTION AND PRAYER FOR RELIEF

24. Plaintiff-Intervenors adopt and incorporate by reference Count I and Count II of Plaintiffs' Complaint.

25. Plaintiff-Intervenors adopt and incorporate by reference the Prayer for Relief of Plaintiff's Complaint, including their request for an award of litigation costs and attorney's fees pursuant to 42 U.S.C. § 1988 and their request that this Court retain jurisdiction over this action and grant Plaintiff-Intervenors any further relief which may in the discretion of the Court be necessary and proper.

Dated: July 29, 2024

Respectfully submitted,

/s/Christopher R Lusby
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Counsel for Plaintiff-Intervenors
**Local Civil Rule 83.1(d) Counsel*

CERTIFICATE OF SERVICE

I hereby certify that on July 29, 2022 the foregoing document was filed using the Court's CM/ECF system, which will effect service upon all counsel of record.

/s/Christopher Lusby _____
Christopher Lusby

Counsel for Plaintiff-Intervenors